

IV. Remarks**A. Allowable Subject Matter**

Applicant is grateful to the Examiner for allowing claims 25 and 26.

The Examiner also states in the Action that claims 14 and 20 remain objected to but would be allowable if rewritten in independent form.

In Applicant's Response to the previous Action, Applicant canceled objected to claim 14 and amended its features into independent claim 9. It is again submitted, therefore, that independent claim 9 and claims 10-13 and 16, which depend from claim 9, are in allowable form as recognized by the Examiner.

In the previous Response, Applicants inadvertently canceled then pending claim 21 rather than claim 20 and amended its features into independent claim 17 to gain allowance. This error has been corrected by amending the features of claim 20 and claim 18 (from which claim 20 depended) into claim 17 and canceling the features previously amended therein. Claims 18 and 20 have been canceled consistent with these amendments. Claim 19 has also been amended consistent with the amendments to claim 17 from which it now depends. It is submitted that independent claim 17 and claims 19 and 22-24, which depend from claim 17, are now allowable as recognized by the Examiner.

B. Rejection under 35 U.S.C. § 102**1. Claims 1-5, 8-10, 16, 27 and 28**

The Action rejects claims 1-5, 8-10, 16, 27 and 28 as being anticipated by U.S. Patent No. 6,044,609 to Kim.

As discussed above, the Applicant believes the Examiner mistakenly rejected independent claim 9, which was previously amended to include the features of objected to claim 14. It is submitted, therefore, that claims 9, 10 and 16 are in allowable form.

With respect to independent claim 1, claim 1 recites that the rear face of the panel has a first area that is “a protruding first area in said rear face having a planar first face that is shaped to sit substantially flush with a portion of a vertical wall.” Claim 1 also recites that the panel rear face includes a portion proximate to a bottom end of the rear face that rests upon a front face of the overlapped second siding panel.

Claim 1 has been amended as set forth above to recite further that “said portion of said rear face proximate to said bottom end” has “a planar second face extending from said bottom end to near to said first area.” By “near” it is meant the ordinary meaning of “near,” that is “close to or at.” This allows for the planar second face to extend all the way to the first area or close to the first area, such as in embodiment where there is a short transition area between the first area and planar second face. Support for this amendment can be found in, for example, FIG. 4, which shows a planar portion of the rear face 104 of the panel 100 extending from the bottom edge of the panel near to the first area 106.

These amendments have been presented to better focus claim 1 and its dependent claims on the structure shown in, for example, FIG. 4 where the rear face of the panel forms a continuous surface comprising several planar faces at angles with respect to one another that transition into one another. Such a structure is clearly not taught by Kim. The Examiner identifies the area at 31 as the claimed thickened portion forming the claimed protruding first area of claim 1. Applicants maintain their traversal of this point, as the panel of Kim (see, e.g. FIG. 3) is clearly an extruded product that has profile walls of uniform thickness. Nonetheless, Applicant submits that the panel of Kim does not have a rear face having a portion proximate to a bottom end thereof that has a planar second face extending from the bottom end to near to said first area. The area at the rear face of the panel of Kim, defined between its bottom edge and the first planar area 31 as identified by the Examiner, has a series of hook or catch portions designed to mate with corresponding seats in the rails 2 secured to the wall 1. (See FIGS 1 and 2).

For at least these reasons, it is submitted that claim 1 and claims 2-4 and 8, which depend from claim 1, are not anticipated by and are allowable over Kim.

Independent claim 27 has been amended to recite that “wherein said rear face has bottom and top ends and said first portion forms a planar surface extending from said bottom end to a location proximate to said second portion.” Claim 27 refers to the “first portion” as that portion of the rear face that forms an oblique angle with respect to a vertical wall to which said siding panel is affixed and to the “second portion” as that portion of the rear face that is disposed in substantially flush contact with said vertical wall. As discussed above in connection with claim 1, Kim’s panel does not have a rear face having a planar surface extending from the bottom end of the panel to a location proximate to the portion that sits flush with a vertical wall.

For at least these reasons, it is submitted that independent claims 27 and 28 are not anticipated by Kim and are allowable thereover.

2. Claims 17-19 and 21-23

The Action also rejects Claims 17-19 and 21-23 as being anticipated by Kim. Claims 18 and 21 have been canceled. Claim 17 has been amended as discussed above to included the features of objected to claim 20. It is submitted therefore that independent claim 17 in allowable form. It is also submitted that claims 19, 22 and 23, which depend from claim 17, are allowable for at least the reasons set forth in connection with claim 17.

It is also submitted that claim 23 recites that the siding panels are “fiber cement” clapboard siding panels. In rejecting claim 23 as being anticipated by Kim, the Examiner states that “KIM inherently details a ‘wood clapboard.’” It is submitted that this rejection is, therefore, deficient for not being directed to the features of claim 23 since “fiber cement” is clearly not “wood clapboard.” Withdrawal of the rejection, therefore, is respectfully requested for this additional reason.

C. Rejection under 35 U.S.C. § 103

The Action rejects Claims 6, 7 and 15 as being obvious from Kim.

Claims 6 and 7 depend from Claim 1, which is allowable as set forth above.

Claim 15 depends from Claim 9, which is also allowable as set forth above.

Accordingly, reconsideration and withdrawal of the rejection of these claims are respectfully requested.

The Action rejects Claim 11 as being obvious from Kim in view of U.S. Patent No. 2,231,006 to Harshberger. Claim 11 depends from Claim 9, which is allowable as set forth above. Reconsideration and withdrawal of the rejection of Claim 11 are respectfully requested.

D. Claims 29 and 30

Claims 29 and 30 were added in the previous Response, but the present Action fails to address these claims other than in the "Office Action Summary." It is submitted, therefore, that the Action is deficient. Correction in any subsequent Action is respectfully requested. It is also submitted that to the extent a new Action is issued by the Examiner, it should be "non-final" so as to afford Applicant full and fair opportunity to address any rejection set forth therein.

Claim 29 depends from Claim 27, which is allowable as set forth above. Claim 30 depends from Claim 25, which has been allowed as set forth above. Allowance of these claims are, therefore, respectfully requested.

Further, claims 29 and 30 recite that the siding panel is a fiber cement siding panel. It is submitted that this limitation materially distinguishes these claims from the Kim reference. Kim discloses a panel that has a very intricate profile shape so as to interlock with the wall mounted rails 2, as shown in FIGS. 1, 2 and 4 of Kim. Though Kim does not disclose the material from which its panel is formed, it is submitted that one of ordinary skill would understand that the

thin, intricate profiled panel would be formed in a profile extrusion process. This process typically involves extruding molten PVC or aluminum through a die to form long, extruded shapes that are then cut to length. It is submitted that one of ordinary skill would understand that fiber cement products are made using a slurry that is pored into a mold or a press having a defined shape. One of ordinary skill in the siding arts would not find fiber cement amenable to the types of extrusion processes needed to form the intricate shapes of the panel of Kim. Therefore, it is submitted that one of ordinary skill would not (and could not) form the panel of Kim from fiber cement.

For at least these additional reasons, it is submitted that claims 29 and 30 are independently allowable over Kim.

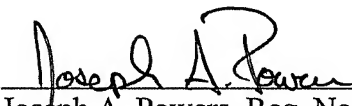
V. Conclusion

In view of the foregoing remarks and amendments, Applicant submits that this application is in condition for allowance at an early date, which action is earnestly solicited.

The Commissioner for Patents is hereby authorized to charge any additional fees or credit any excess payment that may be associated with this communication to deposit account 04-1679.

Respectfully submitted,

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